

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CAROLE DAANE,

Plaintiff,

-against-

Civil Action No.:

NOTICE OF REMOVAL

RYDER TRUCK RENTAL, INC. POSTAL FLEET
SERVICES, INC. AND MELVIN ALLEN,

Defendants.
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COUNSELORS:

PLEASE TAKE NOTICE that defendants RYDER TRUCK RENTAL, INC. POSTAL FLEET SERVICES, INC. AND MELVIN ALLEN, by its attorneys WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, pursuant to 28 U.S.C. §1441 and based upon this Court's diversity jurisdiction under 28 U.S.C. §1332, remove this action from the Supreme Court of the State of New York, County of Bronx, to the United States District Court for the Southern District of New York. The grounds for such removal are as follows:

1. Plaintiff Carole Daane commenced an action by the filing of a Summons and Verified Complaint in the Supreme Court of the State of New York, County of Bronx on March 21, 2018. No request for a specific monetary damages amount was particularized in the complaint. The action bears the Index Number 24412/2018 and is a civil action seeking damages for personal injuries arising out of an incident allegedly caused by defendants' negligence. A copy of the Summons and Verified Complaint is attached hereto as Exhibit "A". On June 25, 2018, Defendants served its Verified Answer to the Verified Complaint. A true and accurate copy is attached hereto as Exhibit "B". On June 25, 2018, Defendants also served, pursuant to

CPLR § 3017(c), a Supplemental Demand for Relief. A true and accurate copy is attached hereto as Exhibit “C”.

2. Plaintiff served a Verified Bill of Particulars on or about October 12, 2018, in which plaintiff plead a specific monetary damages totaling in the amount of approximately \$92,062.80. A true and accurate copy is attached hereto as Exhibit “D”.

3. To date, Plaintiff has failed to provide a Response to the Supplemental Demand for Relief. A copy of the good faith correspondence sent on August 15, 2018 and September 26, 2018 Exhibit “E”.

4. Upon information and belief, Exhibits “A” through “D” are the only pleadings in the action filed in the New York Supreme Court of Bronx County.

5. Plaintiff is a citizen and resident of the State of New York and resides in the County of Bronx. See Exhibit “A”.

6. Ryder Truck Rental is a domestic corporation organized and existing under the laws of the State of Florida and has its principal place of business in Miami, Florida. See Exhibit “B”.

7. Postal Fleet Services, Inc., is a domestic corporation organized and existing under the laws of the State of Delaware and has its principal place of business in St. Augustine, Florida. See Exhibit “B” and See Exhibit “F” attached Rule 7.1 Corporate Disclosure.

8. Mr. Melvin Allen is a citizen and resident of the State of New Jersey and resides in the County of Camden. See Exhibit “G” attached Police Report.

9. Venue is proper in the United States District Court for the Southern District of New York, because the lawsuit was filed in the County of Bronx.

10. All defendants have consented to the removal of this action for the Southern District of New York.

11. The amount in controversy, as alleged for the first time in Plaintiff's Verified Bill of Particulars dated October 11, 2018, exceeds \$75,000, exclusive of interest and costs. See Exhibit "D".

12. After the filing of this Notice of Removal in the United States District Court for the Southern District of New York, written notice of the filing of this Notice of Removal will be given by the attorneys for defendants to Plaintiff's attorney at his last known address, and copies of the Notice of Removal will be filed with the Clerk of the Supreme Court of New York, County of Bronx.

13. This removal is timely pursuant to 28 U.S.C. § 1446 as it is being made within thirty days of the receipt by the defendants of "a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable," and less than one year after the commencement of the action. See 28 U.S.C. § 1446(b)(3); 28 U.S.C. § 1446(c)(1); *Moltnr v. Starbucks Coffee Co.*, 624 F.3d 34 (2d.Cir 2010) (holding that the removal clock did not begin to run until defendant received the first paper from which it could ascertain that the case was removable—specifically, plaintiff's letter stating that she sought damages "not to exceed \$3 million," and not from the date the complaint was served.)

14. Jurisdiction exists in this Court by reason of diversity of citizenship, 28 U.S.C. § 1332, as there exists complete diversity between the parties and the amount in controversy exceeds \$75,000.

WHEREFORE, Defendants hereby removes the above-entitled action from the Supreme Court of the State of New York, County of Bronx to the United States District Court for the Southern District of New York pursuant to 28 U.S.C. § 1332, 1441 and 1446.

Dated: New York, New York
November 12, 2018

Respectfully yours,

**WILSON, ELSER, MOSKOWITZ,
EDELMAN & DICKER LLP**

By: 

John Kelly, Esq.

Attorneys for Defendants

**RYDER TRUCK RENTAL, INC.,
POSTAL FLEET SERVICES, INC. and
MELVIN ALLEN**

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